

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

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|-----------------------------|---|--------------------------|
| IN RE: |) | Chapter 11 |
| |) | |
| EASTERN LIVESTOCK CO., LLC, |) | Case No. 10-93904-BHL-11 |
| |) | |
| Debtor. |) | Hon. Basil H. Lorch III |

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH AGRI BEEF CO., AB LIVESTOCK, LLC, AND
SUPREME CATTLE FEEDERS, LLC**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the estate ("Estate") of debtor, Eastern Livestock Co., LLC ("Debtor"), by counsel, respectfully moves the Court to approve the compromise and settlement of claims between the Trustee and Agri Beef Co., AB Livestock, LLC, and Supreme Cattle Feeders, LLC (collectively, "Agri Beef"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case ("Chapter 11 Case") on December 6, 2010 (the "Petition Date"). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.
2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. Prior to the Chapter 11 Case, Debtor and Agri Beef entered into contracts where Debtor sold cattle to Agri Beef that were to be delivered at future dates. Agri Beef would make down payments on the future deliveries with final payment on delivery. Debtor did not perform on all the contracts at the time it ceased normal operations. Agri Beef asserted claims against the Estate for losses it claims it sustained due to the Debtor's non-performance. The Trustee disputed Agri Beef's claims and asserted claims on behalf of the Estate against Agri Beef related to the contracts and preference claims related to the use of Debtor's funds to repay loans made to Tommy Gibson by Agri Beef. Agri Beef's asserted claims against the Debtor aggregate \$2,483,499.00 and the Trustee's claims aggregate \$4,374,459.00.

The Settlement

4. The Trustee has negotiated a settlement of all disputes with Agri Beef on the terms set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A ("Settlement Agreement"). Pursuant to the Settlement Agreement, Agri Beef agrees to pay the Trustee the total sum of \$275,000.00 ("Payment Amount") in settlement of all disputes. The Settlement Agreement contains a mutual release by which Agri Beef waives all claims against the Debtor, its estate, the Trustee, and his professionals, including without limitation a waiver of any right to assert a claim under Section 502(h) of the Bankruptcy Code.

5. In accordance with the terms of the Plan and the determination by the Trustee, the Payment Amount shall become part of the Recovery Fund (as that term is defined in the Estate's confirmed Chapter 11 Plan).

Basis for Relief

6. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

7. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

8. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the Estate. The parties have exchanged confidential position statements on the points of law raised in connection with the respective claims and defenses and informal discovery including two depositions of Agri Beef personnel have occurred. The Trustee and Agri Beef each believe that its position is correct and would prevail in litigation. However, a litigation alternative to settlement would result in significant expense and delay and create the possibility of an outcome that could result in a smaller recovery to the Estate.

9. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Terry E. Hall

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CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on September 24, 2013, a copy of the foregoing pleading was served via electronic mail transmission on the following:

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